

## United States International Trade Commission

## § 201.40

the earliest practicable time by issuing an appropriate amendment to the public notice as required by § 201.35.

(b) The subject matter or matters of a Commission meeting or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public may be changed following a public announcement required by § 201.35 only if:

(i) A majority of the entire membership of the Commission determines by recorded vote that Commission business so requires and that no earlier announcement of the change was possible and

(ii) The Commission publicly announces such change in subject matter or such change in the determination of the Commission to open or close a meeting, or a portion of a meeting, to the public and the vote of each Commissioner upon such change or changes in a subsequent amendment of the public notice required by § 201.35.

### **§ 201.38 Requests by interested persons that the Commission close a portion of a Commission meeting.**

(a) Whenever any person whose interests may be directly affected by a portion of a Commission meeting requests that the Commission close such portion to the public for any of the specific reasons enumerated in paragraphs (b) (5), (6), or (7) of § 201.36, the Commission, upon the request of any one of the Commissioners, shall take a vote in the manner specified in § 201.36 of this subpart on whether or not to close such portion of the meeting.

(b) When the Commission votes on a request to close a portion of a meeting under paragraph (a) of this section in the manner specified in § 201.36(d), a public notice as required by paragraphs (a) and (b) of § 201.35 shall be issued.

### **§ 201.39 General Counsel's certification of Commission action in closing a meeting or a series of meetings.**

Before a Commission meeting may be closed for the specific reasons enumerated in paragraphs (b) (1) through (9) of § 201.36, the General Counsel (i) Shall, in the related public notice, certify that in his or her opinion the meeting may be closed to the public and (ii) Shall state each applicable exemptive

provision of paragraphs (b) (1) through (9) of § 201.36.

### **§ 201.40 Records-retention requirements.**

(a) The Secretary shall maintain a copy of the certification by the General Counsel required by § 201.39 for each Commission meeting of which a portion or portions are closed to the public pursuant to a vote under § 201.36(d).

(b) The Secretary shall also maintain a copy of a statement from the presiding officer of each Commission meeting or portion thereof which was closed to the public for the specific reasons enumerated in paragraphs (b) (1) through (9) of § 201.36(b) setting forth (i) The time and place of the closed meeting, or portion thereof, and (ii) A list of the persons present thereat.

(c) The Secretary shall also maintain a complete transcript or electronic recording of the proceedings of each Commission meeting or portion of a meeting, whether open to public observation or closed to the public. The Secretary shall also maintain a complete transcript or electronic recording of all deliberations conducted under paragraphs (a) (4), (5), and (6) of § 201.34 of this subpart.

(d) Where portions of a Commission meeting are closed for the reasons contained in paragraphs (b) (8)(A) or (9) of § 201.36, the Commission preserves the option to maintain detailed minutes of such portions. Such detailed minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(e) The retention period for the records required by paragraphs (a), (b), (c), and (d) of this section shall be for a period of at least two (2) years after the particular Commission meeting, or until one (1) year after the conclusion of any Commission proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.